



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 3700-00

22 June 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Case Summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former commissioned officer in the United States Naval Reserve filed enclosure (1) with this Board requesting that his record be corrected to show that he transferred to the Retired Reserve vice being discharged on 1 March 1983.

2. The Board, consisting of Mr. Zs Salman, Mr. Bartlett and Ms. Gilbert, reviewed Petitioner's allegations of error and injustice on 20 June 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner's record shows that on 30 September 1982 he was transferred to the VTU pending transfer to the Retired Reserve. On 5 January 1983 he was issued a Notification of Eligibility for Retired Pay at Age 60. The next month he was informed that since he had completed 20 years of commissioned service and had twice failed of selection to CDR (O-5) his discharge or retirement was required by law on 1 March 1983. The record shows that he was honorably discharged on 1 March 1983. He became 60 years old on 12 March 2000.

d. Petitioner states, in effect, that he did not understand

that he had to request retirement and did not realize that there was a problem until he applied for his retired pay.

e. The Board did not request an advisory opinion in this case. However, the Board is aware that the Navy Personnel Command has routinely recommended favorable action in similar cases where an individual was qualified for reserve retirement and there is no explanation in the record why they were discharged and not retired.

#### CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board is aware that Petitioner was in good standing in the Naval Reserve and would have been retired if he had requested it. Given the circumstance, the Board concluded that he should be transferred to the Retired Reserve in the rank of LCDR (O-4) on 1 March 1983 vice being discharged on that date. Additionally since he is now 60 years old, the record should be further corrected to show that he transferred to the Retired List on 12 March 2000 his 60th birthday.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand his status in the Naval Reserve.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he transferred to the Retired Reserve on 1 March 1983 vice being discharged on that date. In addition the record should be corrected to show that he transferred to the Retired List on 12 March 2000 his 60th birthday.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

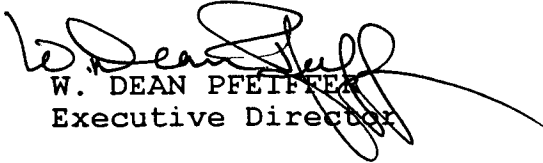
ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of

Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director